



**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**[Docket No. NHTSA-2016-0071; Notice 2]**

**Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Grant of petition.

**SUMMARY:** Cooper Tire & Rubber Company (Cooper), has determined that certain MULTI-MILE Grand Tour LS passenger vehicle tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Tires Radial Tires for Light Vehicles*. Cooper filed a defect report dated May 24, 2016. Cooper also petitioned NHTSA on June 8, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

**ADDRESSES:** For further information on this decision contact Abraham Diaz, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5310, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Overview:** Cooper Tire & Rubber Company (Cooper), has determined that certain MULTI-MILE Grand Tour LS passenger

vehicle tires do not fully comply with paragraph S5.5.1(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Tires Radial Tires for Light Vehicles*. Cooper filed a defect report dated May 24, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

Cooper petitioned NHTSA on June 8, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on August 3, 2016 in the **Federal Register** (81 FR 51269). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0071."

**II. Tires Involved:** Affected are approximately 37 Cooper Tire MULTI-MILE Grand Tour LS Size 205/70R15 Tubeless Radial Tires manufactured between March 24, 2016 and March 29, 2016.

**III. Noncompliance:** Cooper explains that the noncompliance is that the outboard sidewalls of the subject tires are labeled with an incorrect manufacturer's identification mark and therefore do not fully meet all applicable requirements of

paragraph S5.5.1(b) of FMVSS No. 139. Specifically, the tires are labeled with the manufacturer's identification mark "Y9," assigned to a manufacturing facility in P.T. Gadjah Tunggal, Kabupaten Tangerang, Jawa Barat, Indonesia, instead of "U9," assigned to Cooper's manufacturing facility in Tupelo, Mississippi, where the tires were actually produced.

**IV. Rule Text:** Paragraph S5.5.1 of FMVSS No. 139 requires in pertinent part:

*S5.5.1 Tire Identification Number.*

...

(b) *Tires manufactured on or after September 1, 2009.* Each tire must be labeled with the tire identification number required by 49 CFR part 574 on the intended outboard sidewall of the tire. Except for retreaded tires, either the tire identification number or a partial tire identification number, containing all characters in the tire identification number, except for the date code and, at the discretion of the manufacturer, any optional code, must be labeled on the other sidewall of the tire. Except for retreaded tires, if a tire does not have an intended outboard sidewall, the tire must be labeled with the tire identification number required by 49 CFR part 574 on one sidewall and with either the tire identification number or a partial tire identification number, containing all characters in the tire identification number except for the date code and, at the discretion of the manufacturer, any optional code, on the other side wall.

**V. Summary of Cooper's Petition:** Cooper states its belief that the subject noncompliance is inconsequential to motor vehicle safety on account of the fact that while the subject tires contain an incorrect manufacturer's identification mark on the

outboard sidewall, the full and correct tire code (including the correct manufacturer's identification mark) is available on the intended inboard sidewall.

Cooper also indicated that it has taken the following steps to ensure proper registration of the subject tires:

- a) Cooper has informed all internal personnel responsible for manual processing of tire registration cards about the incorrect manufacturer identification issue so that cards containing the "Y9" designation will be accepted and properly processed when all other information accurately identifies the subject tires. Additionally, consistent with its usual practices, whenever a tire registration card is submitted with inaccurate or incomplete information, Cooper sends a mailing to the consumer seeking additional information by providing a prepaid response card.
- b) Cooper has also modified its database to accept "Y9" when other information (brand, serial weeks affected etc.) is accurate.
- c) Cooper has contacted Computerized Information and Management Services, Inc. (CIMS), a third-party vendor that collects and provides tire registration cards to Cooper, so that tire registration cards will not be rejected solely due to improper plant code information.

Cooper also noted that while the subject tires are mislabeled only with the plant code on the outboard side, they meet all other performance requirements of the applicable standard. The company observed that plant code information has no bearing on the performance or operation of a tire and does not create a safety concern to either the operator of the vehicle on which the tires are mounted or the safety of personnel in the tire repair, retread and recycle industry. Cooper also stated that on March 29, 2016 the incorrect mold was taken out of service and has not been used since.

Please refer to Cooper's petition for its complete reasoning and any associated illustrations. The petition and all supporting documents are available by logging onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/> and following the online search instructions to locate the docket number listed in the title of this notice.

In summation, Cooper believes that the described noncompliance of the subject tires is inconsequential as it relates to motor vehicle safety, and that its petition, to exempt Cooper from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and remedying the noncompliance, as required by 49 U.S.C. 30120, should be granted.

**NHTSA'S DECISION:***NHTSA'S Analysis:*

In this case, the agency believes that one measure of inconsequentiality to motor vehicle safety is that there is no effect of the noncompliance on the operational safety of the vehicles on which these tires are mounted. Cooper certified and stated that the subject tires meet and/or exceed all performance requirements and all other labeling markings required by FMVSS No. 139, and therefore NHTSA has no reason to believe that there are any operational safety issues for these tires.

Second, the agency believes it is necessary that consumers be able to readily identify the tire manufacturer for safety reasons. Cooper explained that while the tire identification number (TIN) on the outboard sidewall of the subject tires is marked with the incorrect manufacturer's identification mark (known in the industry as "plant code") "Y9," instead of the correct code "U9", the information which identifies the correct manufacturer's identification mark, is properly marked on the inboard sidewall. These tires can also be identified by the Cooper brand name and by the tire size marked on the sidewall of the subject tires.

Third, NHTSA recognizes that Cooper took steps to prevent the possibility that customers would not be able to register their tires because those tires have the incorrect

manufacturer's identification mark on them. Cooper worked with CIMS (Computerized Information and Management Services), Inc., to ensure that the registration database could accept the registration regardless of the incorrect code.

Finally, Cooper informed the agency that in an effort to prevent reoccurrence of this noncompliance, they have implemented a change to their support software. Specifically, the selection of the plant code is no longer manual, but rather selected from a drop down menu with only one choice "U9." NHTSA feels that this is important to ensure this noncompliance is corrected on all of Cooper's future production tires since the cumulative effect of recurring noncompliances could result in a safety problem.

*NHTSA's Decision:* In consideration of the foregoing, NHTSA finds that Cooper has met its burden of persuasion that the subject FMVSS No. 139 noncompliance in the affected tires is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is hereby granted and Cooper is consequently exempted from the obligation of providing notification of, and a free remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA

to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision on this petition only applies to the subject tires that Cooper no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant tires under their control after Cooper notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

**Jeffrey M. Giuseppe,**

*Director,*

*Office of Vehicle Safety Compliance.*

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